

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

KIMBERLY A. BLAIR,	:	
	:	
Plaintiff,	:	Case No. 3:16-cv-339
	:	
vs.	:	JUDGE WALTER H. RICE
	:	
NANCY A. BERRYHILL,	:	
Acting Commissioner of the	:	
Social Security Administration	:	
	:	
Defendant.	:	

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DECISION AND ENTRY ADOPTING REPORT AND RECOMMENDATIONS  
OF UNITED STATES MAGISTRATE JUDGE (DOC. #20), OVERRULING  
PLAINTIFF KIMBERLY BLAIR'S OBJECTIONS THERETO (DOC. #21) AND  
OVERRULING PLAINTIFF'S MOTION FOR EXTENSION OF TIME TO  
APPEAL (DOC. #19); TERMINATION ENTRY

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On January 4, 2018, Magistrate Judge Ovington issued a Report and Recommendations, Doc. #20. This filing recommended that Plaintiff's *pro se* Motion for Extension of Time to File an Appeal, Doc. #19, to this Court's Decision and Entry of September 8, 2017, Doc. #17, be denied since Plaintiff had not demonstrated good cause or excusable neglect.<sup>1</sup> On November 8, 2017, Plaintiff,

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<sup>1</sup>In a Decision and Entry filed September 8, 2017, this Court adopted Magistrate Judge Ovington's Report and Recommendations, Doc. #14. The Decision and Entry also overruled Plaintiff's objections, Doc. #15, entered judgment in favor of Defendant Commissioner, affirming the decision that Plaintiff was not disabled and, therefore, not entitled to benefits

again filing *pro se*, filed an objection to the Report and Recommendations, Doc. #21. In her objection, Plaintiff asserted that excusable neglect existed since her attorney “abruptly withdrew” from representation, did not provide her with copies of her file and that she had been unsuccessful in locating new counsel. Doc. #21, PageID#1654.

On June 28, 2018, this Court conducted an evidentiary hearing. Doc. #26. Plaintiff and attorneys Gary Blumenthal and Michael Rake, representatives from the law firm of Horenstein, Nicholson & Blumenthal, LPA., Plaintiff’s former counsel, attended.<sup>2</sup> At this hearing, the Court considered the testimony and evidence from Plaintiff, and attorney Michael Rake concerning Plaintiff’s motion for an extension of time, the January 4, 2018, Report and Recommendations and Plaintiff’s objections.

Based upon the reasoning and citations of authority set forth in the Magistrate Judge’s Report and Recommendations, Doc. #20, as well as upon a thorough *de novo* review of this Court’s file, the applicable law as well as the testimony and evidence taken at the June 28, 2018, evidentiary hearing, this Court (1) adopts in their entirety the Report and Recommendations, Doc. #20;

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under the Social Security Act, and terminated the case. Doc. #17.

<sup>2</sup> On June 8, 2018, the Court sustained Motions to Withdraw as Attorney for Plaintiff, Docs. ##24 and 25.

(2) overrules Plaintiff's objection, Doc. #21, to said judicial filing; and (3) overrules Plaintiff's Motion for an Extension of Time to Appeal, Doc. #19.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

October 30, 2020

A handwritten signature in blue ink that reads "Walter H. Rice".

(tp - per Judge Rice authorization after  
his review)

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WALTER H. RICE, JUDGE  
UNITED STATES DISTRICT COURT

Copies to:

Counsel of record